

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ELEGGUA OSUN ELUFE,

Plaintiff,

ORDER
09-CV-458 (KAM)(LB)

- against -

REILLY RICHARD, Police Officer #30562;
MCCAULEY, Police Officer #6506;
JASON PALAMARA, BERNARDO COLON,
JOHN AYLWARD, JOHN SIMLEY, THOMAS
BROGAN and AYANNA HARRISON,

Defendants.

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BLOOM, United States Magistrate Judge:

By Order dated April 5, 2010, the Court directed defendants to respond to plaintiff's March 26, 2010 letter alleging that defendants failed to provide "arrest reports, complaint reports on defendants" "complaint follow-up report, camera inspection of [] crimes alleged by defendants and informant against plaintiff herein." See docket entries 58, 59. Defendants respond that they produced plaintiff's arrest and complaint reports in their initial disclosures and that they have no video or camera evidence. See docket entry 60. Plaintiff now files a letter and a motion to compel defendants to produce answers to interrogatories 1, 4, 5, 9. See docket entries 61, 62. Plaintiff alleges that defendants are covering up material facts, deliberately withholding documents necessary to his malicious prosecution claim and that defendants are committing perjury. Id.

The Court set April 7, 2010 as the deadline for the parties to complete all discovery. See docket entry 54. Although plaintiff's letter to compel discovery was filed after the discovery deadline, the Court has reviewed the parties' submissions. Defendants state that plaintiff

testified at his deposition that McCauley and Reilly did not use excessive force during his August 28, 2008 arrest. The other officers plaintiff names were not present during his arrest. Furthermore, as plaintiff pled guilty to the underlying charges resulting from the August 28, 2008 arrest he cannot pursue his false arrest or malicious prosecution claim. Therefore, defendants are not required to produce the personnel records and disciplinary histories of the defendant officers.¹ The Court denies plaintiff's motions to compel. See docket entries 61, 62.

SO ORDERED.

S/ Judge Bloom

LOIS BLOOM

United States Magistrate Judge

Dated: May 5, 2010
Brooklyn, New York

¹ Defendants also state that plaintiff was asked to sign a Stipulation and Protective Order, so that the officer's disciplinary histories and records could be produced, but plaintiff failed to execute and return the Stipulation. See docket entry 60.